

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NORMA LYNCH, et al.,

Plaintiff,

-against-

CITY OF NEW YORK,

Defendants.
-----X

DEFENDANT'S
NOTICE OF MOTION
FOR PARTIAL
SUMMARY JUDGMENT
AND FOR
DECERTIFICATION

16 Civ. 05677 (KBF)

PLEASE TAKE NOTICE that upon the accompanying (i) Memorandum of Law in Support of Defendant's Motion for Partial Summary Judgment and for Decertification, the Declaration of Courtney P. Fain, dated September 21, 2017, including all exhibits attached thereto, and (iii) upon all the papers and proceedings previously had herein, defendant City of New York ("City" or "Defendant") in the above referenced matter, will move this Court at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York 10007, before the Honorable Katherine B. Forrest, United States Judge, at a date and time to be set by the Court for an order, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for partial summary judgment (1) dismissing Count I in its entirety because, as a matter of law, an employer does not suffer or permit work where, as here, the employer (i) establishes procedures for employees to record their time; (ii) asks employees to certify that the time they submit is accurate; and (iii) pays employees for the time reported and certified; (2) dismissing Count II, in part, because, as a matter of law, the meal allowance payments at issue are properly excluded from the regular rate calculation; (3) dismissing the individual claims of each Plaintiff for whom discovery has shown did not suffer any damages; (4) finding that, as a matter of law, liquidated damages are not recoverable because the record evidence establishes

